IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO. 2770 OF 2006.**

Rupesh Rajaram Kadu .. Applicant
V/s
The State of Maharashtra .. Respondent.

Mr. M.S. Mohite for the applicant.
Mr. R.Y. Mirza, A.P.P. for the State.

**CORAM : S.C. DHARMADHIKARI, J.**

**DATE : 28TH AUGUST, 2006.**

P.C.

. Heard Mr. Mohite appearing for the applicant and Mr. Mirza for the State.

2. The applicant is arrested in CR.No.236/2006 registered with Kothrud Police Station for offence punishable under Section 376 of Indian Penal Code.

3. Mr. Mohite appearing for the applicant has taken me through the statement of girl/complainant, a copy of which is annexed at annexure "A" to this application.

4. He submits that the girl has given her statement on 10th April, 2006. She has stated that her age is 17

years. She has given her date of birth as 28th April, 1989. She has alleged that the applicant/accused befriended her and had sexual relations for about two years. In other words, the relationship has continued from 2003-04 till the date of the complaint. It appears that when the complainant had a bout of depression and has taken treatment at Sassoon General Hospital where she states that she is 19 years of age, as on 27th March, 2006. That means she has clearly suppressed her correct age for an offence to be made out against the applicant. Assuming without admitting that her age is between 15 to 17 years as alleged, it is her own case that the relationship continued for nearly three years. In these circumstances, Mr. Mohite submits that prima facie case is not made out and the applicant deserves to be enlarged on bail.

5. It is his submission that the apprehension is that applicant having a long standing relationship with the complainant and she having now complained against him, there is likelihood that he will tamper with the witnesses and may try to contact and pressurise her. However, this apprehension is not well founded. The applicant today is 21 years of age. There are no

antecedents. He is employed as a office peon through outsourcing agency in the establishment of Wipro Ltd., Pune. He submits that the girl resides at Kothrud. The applicant would not enter Pune city limits save and except for reporting for work and would return back in the evening and reside with his relations at Mulshi. This would take care of any apprehension about the tampering of witnesses. Additionally, the applicant would report at Mulshi Police Station once a week i.e. on Sunday till the trial is concluded.

6. Mr. Mirza has in all fairness produced a a copy of the certificate issued by Department of Forensic Medical, B.J. Medical College and Sassoon Hospital, Pune in which conclusion is recorded that examination of the complainant shows she has completed 15 years but not completed 17 years of age on 17th April 2006.

7. However, none can dispute the statement in her own complaint and her date of birth, so also the entry in the record of Department of Physiology of the Sassoon General Hospital, at this stage. In such circumstances and when the girl complains about the relationship after three years, so also applicant not having any

antecedents, this is a fit case for enlarging him on bail with stringent conditions. Hence, following order:-

i) The applicant arrested in connection with Cr.No. 236/2006 registered with Kothrud Police Station, shall be enlarged on bail subject to furnishing a personal bond of Rs.10,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant shall report to the Mulshi Police Station once a week on Sunday till the conclusion of the trial.

iii) The applicant will not enter the city limits of Pune save and except to report for work and on the dates fixed by the learned Sessions Judge for trial. In the circumstances of the case, the trial is expedited.

iv) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential

address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

v) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

vi) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

viii) Application is disposed of in above terms.

ix) Parties to act on an authenticated copy of this order.

**( S.C. DHARMADHIKARI, J.)**